

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2604

IN THE MATTER OF:

Served September 12, 1984

Application of ODYSSEY VANS, INC., )  
for a Certificate of Public )  
Convenience and Necessity -- )  
Charter Operations )

Case No. AP-84-31

By application filed June 22, 1984, Odyssey Vans, Inc. ("Odyssey" or "applicant"), seeks a certificate of public convenience and necessity to transport passengers together with their baggage in charter operations, over irregular routes, between points in the Metropolitan District, 1/ restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

Pursuant to Order No. 2571, served June 26, 1984, and incorporated herein by reference, and Order No. 2584, served July 25, 1984, a public hearing was held on August 9, 1984, regarding Odyssey's application. The application was unopposed. At the hearing, Odyssey offered the testimony of one company witness and two public witnesses.

Phyllis Abigail Gregory, applicant's president and chief operating officer, testified that Odyssey Vans, Inc., is a recently established Virginia corporation qualified to do business in the District of Columbia and the State of Maryland. The corporation's equity consists of 500 shares of common stock, each with a par value of \$1, 50 percent of which is owned by Ms. Gregory and 50 percent of which is owned by her husband, William E. Gregory, Jr. The Gregorys also hold a 10-year shareholders' note in the amount of \$1,000.

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1/ To the extent this application could be interpreted to include transportation of passengers between points solely within Virginia, the same was dismissed for lack of jurisdiction by Order No. 2571, served June 26, 1984.

Applicant provides school van pool services pursuant to individual contracts within the Commonwealth of Virginia. 2/ Applicant's goal is to utilize its vehicle when it is not committed to school transport by performing charter services for businesses which need to transport employees and clients between points in the Metropolitan District during the hours of 9 a.m. through 2 p.m. Applicant's service would also be available evenings and weekends.

Applicant's proposed operations would be conducted in a 1984 van driven by Ms. Gregory. Provisions have been made for Mr. Gregory to substitute when necessary for a fee of \$25 for an eight-hour day. Neither of the Gregorys held a chauffeur's license on the day of the hearing. However, Ms. Gregory testified that arrangements had been made for them to become licensed. No mechanic is retained by Odyssey inasmuch as the van is currently under warranty and all maintenance and repairs are performed by the dealer. Ms. Gregory further testified that she was aware of her obligation to assure that the vehicle is properly maintained and kept in a safe condition.

Applicant is covered by \$1,000,000 in insurance. Current certificates of insurance were entered into evidence at the hearing and constitute part of the record in this case. 3/

With its application, Odyssey submitted a balance sheet dated June 8, 1984, and a statement of projected income and expenses on a month to month basis. At the hearing, Ms. Gregory elaborated on applicant's financial status, thereby revising both financial statements. Ms. Gregory testified that applicant's start-up costs were covered by a two-year bank loan of \$15,000, \$13,750 of which remains outstanding. The loan is unsecured and personally guaranteed by the Gregorys. Applicant's van was purchased by means of a four-year note in the amount of \$16,101. Applicant's assets consist of an undepreciated van valued at \$16,000, cash on hand in the amount of \$8,500 and office equipment valued at \$170. On cross-examination, Ms. Gregory testified that the company currently has a negative net worth and is personally backed by her and her husband. Applicant projects charter revenues of \$1,200 per month based on an estimated three charter trips per week. Expenses will be higher than initially projected due to underestimation of insurance, accounting and legal costs. Inclusion of the exact

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2/ Such services would be excepted from this Commission's jurisdiction. See Compact Title II, Article XII, Section 1(b). Also see footnote 1.

3/ We note that both insurance certificates, filed by the same agency, bear the notation "van pool" which could be read to limit coverage to Odyssey's Virginia school operations. We will direct the filing of new certificate(s) to cover the operations authorized herein.

amounts due on the bank note and for the van payments also increases expenses slightly. These increases will be somewhat offset due to an overestimation of the cost of office supplies. The effect of these revisions is to postpone the point at which applicant expects to achieve a positive cash flow.

Finally, Ms. Gregory testified that Odyssey had not been conducting charter operations. She testified further that she believes applicant can provide safe and adequate service, that it will observe the Compact, the rules and regulations of the Commission and the safety regulations promulgated by the United States Department of Transportation.

Jutta Bray of Capital Tours International, Inc., Falls Church, Va., testified in support of the application. Ms. Bray testified that she is licensed to guide tours throughout the metropolitan area. She has been in the tour business for four years, and in January 1984 founded Capital Tours International for the purpose of providing tour services within the Washington metropolitan area to groups from abroad. On average, Ms. Bray guides ten such groups per month. Some groups make their own transportation arrangements in which case Ms. Bray merely serves as a guide. In other cases, however, she not only provides tour guide service but also arranges transportation. Transportation must usually be provided on two to three weeks' notice. She has used International Limo, Inc., a Minibus or Minivan Company and Monument Limousine Service. <sup>4/</sup> To date, Ms. Bray has been able to obtain vans as needed. However, in the event applicant is granted a certificate, she plans to contract for its services.

Darlene G. Hines, a sales executive with Metier Management Systems ("Metier"), Alexandria, Va., was authorized by her employer to testify in support of Odyssey's application. Metier sells a computer software product, the Automated Project Management System. Its salespersons have clients throughout the Metropolitan District. Demonstrations of the system conducted at Metier's offices constitute a principal method of closing sales. Groups attending these demonstrations usually include five or six persons and due to the nature of Metier's facilities would never exceed fifteen persons. Demonstrations are conducted in late morning and are followed by lunch.

Transportation to these demonstrations constitutes a problem. For various reasons, clients are often unable to provide their own transportation and the sales personnel must therefore make suitable arrangements. Limousine or van service is arranged when possible. However, since demonstrations are scheduled on no more than two days'

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<sup>4/</sup> Ms. Bray testified that she had contacted Beltway Limousine, but they have never replied.

notice, Ms. Hines is often forced to rent a van from an automobile dealer and drive it herself. In Ms. Hines' opinion, the availability of a reliable, prompt and courteous service like Odyssey's would relieve her and her associates of this problem and would enable salespersons to conduct an increased number of presentations. Consequently, Metier would use Odyssey's service should it be granted authority from the Commission.

In determining whether to grant a certificate of public convenience and necessity, we look to the standards set forth in the Compact, Title II, Article XII, Section 4(b).

. . . the Commission shall grant a certificate . . . , if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity . . . .

Based on a review of the record in this case, we find that applicant has met the burden of proof imposed by statute.

Applicant is a recently-formed corporation. Neither it nor its shareholders has a history of illegal operations. Applicant's president testified that the company would observe its statutory obligations as well as rules and regulations to which it would become subject as a regulated carrier. Like many new, small corporations, Odyssey is undercapitalized. However, its two shareholders have personally guaranteed the company, and a projected income statement for the first twelve months of operations indicates that applicant can expect a positive cash flow within that period. Moreover, applicant's equipment is in good condition and the service proposed is a feasible complement to the school van pool service it is under contract to provide. Based on this evidence, we find applicant fit to perform the proposed service and to conform to the provisions of the Compact and rules and regulations issued by the Commission pursuant to that Compact.

Based on the testimony of its public witnesses, we find that applicant has made the showing of need requisite to a grant of authority from the Commission. Both public witnesses testified that they would use applicant's service should it obtain a certificate of public convenience and necessity. Notice of two to three weeks to arrange transportation for Ms. Bray is short by Washington standards during the peak tourist season -- the period during which Ms. Bray's business is likely to be the heaviest. Ms. Hines, for her part, represents a company that has an ongoing need for transportation on

very short notice in vehicles of van size. Based on Ms. Hines' testimony, it appears that this company currently goes to extraordinary lengths to secure or provide this transportation. Odyssey's proposed service is well-suited to meeting the needs of such companies. 5/ Given that the instant application was unopposed, we can only infer that a grant to Odyssey of a certificate of public convenience and necessity will not adversely affect certificated carriers or the public in general.

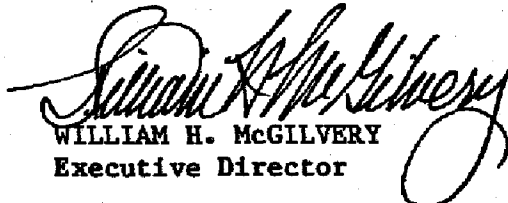
**THEREFORE, IT IS ORDERED:**

1. That Odyssey Vans, Inc., is hereby granted authority to transport passengers together with their baggage in charter operations, over irregular routes, between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

2. That Odyssey Vans, Inc., is hereby directed to file the following: (a) copies of the chauffeur's licenses issued to its shareholders; (b) two copies of WMATC Tariff No. 1; (c) appropriate insurance certificate(s); and (d) two copies of an affidavit certifying compliance with Commission Regulation No. 68 governing identification of vehicles for which purpose WMATC Certificate No. 114 is hereby assigned.

3. That unless applicant complies with the requirements of the preceding paragraph within 30 days, or such additional time as the Commission may direct, the grant of authority herein shall be void, and the application shall stand denied in its entirety effective on the expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director

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5/ Ms. Gregory testified that she has already received positive responses from four more computer software companies interested in similar transportation arrangements.